

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Rafael Escalante Placencia,
aka Rafael Mendoza Escalante,

Plaintiff,

V.

Joseph McFadden, Warden,

Defendant.

C/A No. 5:13-cv-01795-DCN-KDW

ORDER

Petitioner, proceeding pro se and *in forma pauperis*, brought this action seeking habeas corpus relief under 28 U.S.C. § 2254. Respondent filed a Motion for Summary Judgment on October 8, 2013. ECF No. 22. As Petitioner is proceeding pro se, the court entered an order on October 9, 2013, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Petitioner of the importance of a motion for summary judgment and of the need for him to file an adequate response. ECF No. 24. Petitioner was informed that his response was due by November 15, 2013, and was specifically advised that if he failed to respond adequately, Respondent's motion may be granted, thereby ending his case.

Notwithstanding the specific warning and instructions set forth in the court's *Roseboro* order, Petitioner has failed to respond to the motion. As such, it appears to the court that Petitioner does not oppose the motion and wishes to abandon his action against Respondent. Based on the foregoing, Petitioner is directed to advise the court whether he wishes to continue with this case and to file a response to Respondent's Motion for Summary Judgment by **December 9, 2013**. Petitioner is further advised that if he fails to respond, this

action against Respondent will be recommended for dismissal with prejudice for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kaymani D. West". The signature is written in a cursive, flowing style with a large initial 'K' and a distinct 'D'.

November 21, 2013
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge